



Prevention of Genetically Diseased Offspring (Gesetz zur Verhütung erbkranken Nachwuchses), 14/7/1933. Quelle: Archive of the Sachsenhausen Memorial (subsequently AS).

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Eugenic compulsory sterilization in Sachsenhausen concentration camp: A rivalry between normative state and prerogative state in Nazi Germany¹

Compulsory sterilization during National Socialism was based on the "Law for the Prevention of Genetically Diseased Offspring" dating from July 14 1933. German eugenic sterilization can – according to Ernst Fraenkel's concept of the "dual state" – be considered a classic normative measure, since it grounded on a published law and was carried out by traditional state institutions. So it is surprising that among the sterilization victims were also inmates from concentration camps; the concentration camps operated by the SS were the prototypical instrument of the National Socialist prerogative state.

The Berlin Hereditary Health Court alone conducted more than 110 sterilization proceedings against prisoners of Sachsenhausen concentration camp between late 1937 and mid-1942, which had been requested by the SS camp physician there. In my paper, I will examine the topic “eugenic sterilization and the concentration camp system” more closely with the example of the cases from the Sachsenhausen camp. The topic offers interesting insights into the juxtaposition and opposition of the normative and the prerogative state in Nazi Germany.

The National Socialist policy of forced eugenic sterilization was based on the *Law for the Prevention of Genetically Diseased Offspring* (*Gesetz zur Verhütung erbkranken Nachwuchses*) of 14 July 1933, which legalized the sterilization of patients suffering from real or alleged illnesses. The forced sterilization program was implemented by the state authorities and judicial apparatus. As such, according to Ernst Fraenkel’s concept of the “dual state”², it can be regarded as a classic, normative state measure. But in this sense, it is astonishing that concentration camp inmates were among those subjected to forced sterilization; virtually no other institution embodied the National Socialist prerogative state to the degree that the SS-operated concentration camps did.

Between 1937 and 1942, SS doctors from Sachsenhausen concentration camp³ applied to the Berlin “Hereditary Health Court” (“Erbgesundheitsgericht”)⁴ for more than 100 sterilization procedures on prisoners. A closer look at these cases reveals a strange picture: inmates regarded as “hereditarily diseased” (“erbkrank”), who could easily have been murdered by the SS without further ado, were reported to the court for compulsory sterilization, then dressed in new uniforms, brought to Berlin for the hearing, and finally, if convicted, operated on – again newly clothed – in the neighboring city hospital, where many of the men lay in clean, white beds for the first time in a long time. Not least due to such oddities, the topic of compulsory sterilization and the concentration camp system offers interesting insights into the juxtapositions and antagonisms between the normative and prerogative states in National Socialist Germany.

Taking Sachsenhausen concentration camp as a model, my paper will examine the integration of the concentration camp system into the sterilization program. At first, the Nazi’s compulsory sterilization program and the concentration camp system are presented from the perspective of Fraenkel’s concept of the “dual state”. This is followed by an overview of the eugenic forced-sterilization in Sachsenhausen concentration camp with a special focus on the resulting friction between the camp-SS and the “Hereditary Health Court”. The quantitative dimensions of the implementation and the fate of the prisoners affected are then examined.⁵ The essay concludes with a discussion on why the SS participated at all in the legal form of Nazi forced sterilization, which came heavily burdened with bureaucratic regulations.

1 This article, extended by a subchapter, is a partially abridged version of my article: Eugenic Zwangssterilisation im KZ Sachsenhausen. Zur Konkurrenz von Normenstaat und Maßnahmenstaat im Nationalsozialismus. In: Zeitschrift für Geschichtswissenschaft, Vol. 69 (2021), No. 10, pp. 850–867.

2 Ernst Fraenkel: The Dual State. A Contribution to the Theory of Dictatorship. New York 1941.

3 Between its establishment in 1936 and liberation in 1945, over 200.000 people were incarcerated in Sachsenhausen concentration camp. Until mid-1944, Sachsenhausen was a men-only camp.

4 In the article, historical terms from the Nazi era are used in quotation marks, as is customary in academia. To make reading easier, these historical terms as well as quotations from German-language sources have been translated into English.

5 In this article, only the compulsory eugenic sterilizations that fell under the *Law for the Prevention of Genetically Diseased Offspring* will be examined. This does not include the castration of homosexuals, which was also legalized from 1935 onwards. On this see Astrid Ley: Zwangssterilisation und Ärzteschaft. Hintergründe und Ziele ärztlichen Handelns 1934–1945. Frankfurt am Main/New York 2004, pp. 93–94, footnote 55.

1 Forced sterilization as a normative state sanction under the Nazi regime

The eugenic forced sterilization in Germany between 1933 and 1945 was a Nazi-specific crime. The German practice differed significantly from the procedure in other – notably democratic – states such as the USA, Switzerland or Sweden, where sterilization laws also existed at the time. There were clear differences not only concerning the direct coercive nature of the German law, which could be enforced against the will of those affected, but also in the quantitative dimension of its implementation: in no other country were so many eugenic sterilizations carried out as in the German Reich, where, between 1933 and 1945, fourteen times more people than in the – far more populous – United States were made infertile. The most important difference, however, was that the German sterilization program was closely integrated into the “racial policy” (“Rassenpolitik”) of the Nazi state. This aimed not only at an exclusion of people defined as “racially” alien, but also at a “cleansing of the German people” from “internal pests” such as those suffering from supposed hereditary diseases. The Nazi utopia of a “racial ordering” (“rassische Neuordnung”) of Europe and the resulting Holocaust were inextricably linked to eugenic sterilization.⁶

Although based on a promulgated law, forced sterilization in Germany was a Nazi-specific injustice. The legality of the measure suggested legal certainty. The apparent objectivity of the proceedings was based primarily on two factors. On the one hand, the decision on the coercive measure had been transferred to the judiciary: “Hereditary Health Courts” consisting of judges and doctors examined each individual case in the course of oral hearings, during which the person concerned was regularly heard, and there was also an option to take the case further to an appeals court.⁷ Second, only specially designated doctors and clinics were authorized to perform the surgery in order to minimize the risk of health complications.⁸ However, expectations for an independent procedure were not met – through various regulations, the legislature had ensured that the decisions of the “Hereditary Health Courts” prioritized the alleged interests of the so-called “people’s community” (“Volksgemeinschaft”) rather than the well-being of the individuals concerned,⁹ just like Hitler put it in *Mein Kampf*: “The right to personal freedom is superseded by the duty to preserve the race.”¹⁰

Despite its biased character, the Nazi sterilization program can be considered the epitome of normative state action in the sense of Ernst Fraenkel’s “dual state”. In his 1941-publication, the lawyer Fraenkel, who had fled from Berlin to the USA in 1938, described the Nazi system of rule as the juxtaposition of a normative state and a prerogative state. The normative state, he understood as the system of government with its classic “powers for safeguarding the legal order”, while the prerogative

6 Between 1934 and 1945, approximately 360.000 people were made infertile on the basis of the German sterilization law (cf. Gisela Bock: *Zwangssterilisation im Nationalsozialismus. Studien zur Rassenpolitik und Frauenpolitik*. Opladen 1986, pp. 237–238, 241–244, 301–302). With regard to the prehistory, see also Paul Weindling: *Health, Race and German Politics between National Unification and Nazism. 1870–1945*. New York 1989; Richard F. Wetzell: *Inventing the Criminal. A History of German Criminology. 1880–1945*. Chapel Hill/London 2000.

7 Cf. Ley: *Zwangssterilisation*, pp. 82–93.

8 Cf. *ibid.*, pp. 93–97.

9 For details on the procedural regulations and the resulting coercive nature of the measure, see Ley: *Zwangssterilisation*, pp. 67–99.

10 As cited in *Gesetz zur Verhütung erbkranken Nachwuchses vom 14. Juli 1933 [...]*, bearbeitet und erläutert von Arthur Gütt, Ernst Rüdin und Falk Ruttke. München 1934, p. 148; German quotations have been translated into English by the author.

state was the system of rule that “exercised unlimited arbitrariness and violence.”¹¹ According to Fraenkel, a prerogative state had emerged in Germany since 1933, alongside which the traditional normative state continued to exist and function, even if to a diminishing extent.¹² In the process of the gradual displacement of the normative state by the prerogative state, however, conflicts occurred, for instance when state institutions sought to defend their sovereign competences against extra-normative power bases. Such a case is exemplified in the following in the antagonism between the Berlin “Hereditary Health Court” and the Sachsenhausen camp SS.

2 The concentration camp system as an instrument of the National Socialist prerogative state

The concentration camp system operated by the SS – which was the most important terror organization in the Nazi regime – must be considered the epitome of extra-normative violence in Fraenkel’s sense.¹³ The ministerial bureaucracy repeatedly tried to convince Hitler to close the concentration camps and to have “protective custody” (“Schutzhaft”) which was extensively practiced in the camps, moved to the domain of normal judicial prisons.¹⁴ But SS chief Heinrich Himmler successfully fought off all such initiatives. In the autumn of 1935, he even succeeded in completely removing the concentration camp system from the influence of the judiciary.¹⁵

The concentration camp was a largely sealed-off world, where prisoners were helplessly exposed to the terror and arbitrariness of the SS. The camps that were located on the territory of the German Reich – and as such in an area where the National Socialist sterilization law applied – were not a primary site of the genocide, but – at least during the war – rather aimed at “extermination through work” (“Vernichtung durch Arbeit”); a prisoner’s labor power was to be exploited until the prisoner’s death through exhaustion. All concentration camps had prisoner infirmaries, whose main purpose was to combat epidemics. SS camp doctors were active in these.

In mid-1937, the SS camp doctors – like the prison doctors too – were required to apply to the court for the sterilization of inmates considered “hereditarily diseased” (“erbkrank”).¹⁶ The new task confronted the concentration camp SS with an unknown situation: While previously the prisoners’ receipt of mail depended on the whim of the SS at any given time, dispatches from the “Hereditary Health Courts” were now to be handed over immediately to the inmates. In the case of Sachsenhausen, the prisoners intended for sterilization had to be brought to Berlin for the trial and subsequently, if convicted, driven to the Oranienburg hospital where the operation was performed. The reason was that persons affected by the sterilization law had certain rights: It wasn’t just the right to be heard in court or the right to specialist medical care in the

11 Ernst Fraenkel: *Der Doppelstaat*. Hamburg 42019, p. 49.

12 Cf. *ibid.*, pp. 55–58. Fraenkel’s “dual state” was explicitly not about the dualism of state and party; it is, therefore, not a favorable confrontation of the “traditional law-abiding” state bureaucracy with the “destructive” Nazi movement (cf. Horst Dreier: *Nachwort. Was ist doppelt am „Doppelstaat“? Zur Rezeption und Bedeutung der klassischen Studie von Ernst Fraenkel*. In: *ibid.*, pp. 274–300).

13 Cf. Karin Orth: *Das System der nationalsozialistischen Konzentrationslager. Eine politische Organisationsgeschichte*. Hamburg 1999.

14 Cf. Lothar Gruchmann: *Justiz im Dritten Reich 1933–1940. Anpassung und Unterwerfung in der Ära Gürtner*, 3. verb. Aufl. München 2003, pp. 535–745, especially pp. 535–632.

15 Cf. Nikolaus Wachsmann: *KL. A History of the Nazi Concentration Camps*. New York 2015, pp. 83–100.

16 Runderlass des Reichs- und Preußischen Ministers des Innern, Nr. IV A 17177/37/1000 vom 15.6.1937, in: *Ministerialblatt des Reichs- und Preußischen Ministeriums des Innern* 2 (98), 1937, p. 1012. The decree conferred SS camp doctors with “official medical powers” concerning the sterilization law. As a result, they received the right to submit sterilization applications for the prisoners.

event of forced surgery. Being informed about the status of the proceedings was also one of these rights, which is why court mail always had to be promptly handed over to the concerned persons. The incompatibility of such rights with the ideas of the SS led to significant friction between the judiciary and the concentration camp SS, as will be examined in the following using the example of Sachsenhausen. It should be emphasized in advance that the members of the “Hereditary Health Courts” were without question devout supporters of the Nazi regime and its eugenic goals.¹⁷ Their issues with the camp SS were not due to any rejection of Nazi compulsory sterilization, but rather to differing views on how it should be implemented and who should be in charge of the decision. These differences are exemplary for the conflict between the normative state and the prerogative state under National Socialism.

3 The conflicts between the Berlin “Hereditary Health Court” and the Sachsenhausen concentration camp

From the end of 1937, applications for sterilization from the Sachsenhausen concentration camp arrived in rapid succession at the Berlin “Hereditary Health Court”.¹⁸ The court set corresponding hearing dates in the Berlin court building, for which the prisoner concerned was always to appear in person. But the same picture emerged at all the appointments in 1938: No one appeared for the hearing.

In the case of Otto B., a prisoner in “protective custody”, the camp doctor had registered him for sterilization at the beginning of 1938 on the grounds of “schizophrenia”, and the court had requested that he be brought to the hearing. However, the camp SS refused “for reasons of camp security.”¹⁹ The “Hereditary Health Court” responded by rejecting the sterilization application, whereupon the camp doctor immediately lodged a complaint. This led to a date being set for the case to come before a court of appeal in mid-May, but again the SS did not bring Otto B. to Berlin. Consequently, the court decided to conduct the hearing “in the camp.”²⁰ A written request by the judge for an appointment went unanswered, and only after repeated insistence did the concentration camp command declare itself ready to provide the court with “a room for interrogation purposes”²¹ in the camp. In mid-August 1938, the court’s “local appointment in the concentration camp”²² finally took place. Otto B. was heard by the chamber, the outcome being that the court rejected the camp doctor’s request for sterilization in the second instance.

The Berlin court also tried another avenue to assert itself against the concentration camp SS. When the order for the court attendance of Leonhard K., a prisoner in “preventive custody” (“Vorbeugehaft”), was ignored, the criminal police were asked for help by the court, since they themselves had often had concentration camp inmates brought to the police office for interrogation.²³ The criminal police assured support by phone, which prompted the judge to send them several court orders for the attendance of Sachsenhausen prisoners at their respective hearings – including

17 Cf. Ley: Zwangssterilisation, pp. 84–85.

18 Data from: Registers of I to IV Chambers of the Berlin “Hereditary Health Court” (“Erbgesundheitsgericht” subsequently EG), in: EG Berlin files, Landesarchiv Berlin (subsequently LAB), A Rep. 356, no. 45588-45645.

19 EG case-file Otto B., LAB, A Rep. 356, no. 6468, fol. 8–10, citation: fol. 10.

20 Ibid., fol. 13–26, citation: fol. 26.

21 Ibid., fol. 27–31, citation: fol. 31.

22 Ibid., fol. 32–35, 47–48.

23 Cf. EG case-file Leonhard K., LAB, A Rep. 356, no. 44626, fol. 13–19, citation: annotation from 9 March 1938, no pagination.

one for Leonhard K. who was accused of “*feeble-mindedness and alcoholism.*” But neither K. nor any of the other prisoners were brought to Berlin by the SS on the scheduled date. The court then suspended proceedings against K. “*until his release from the concentration camp*”²⁴.

Until March 1939, the Sachsenhausen concentration camp stubbornly ignored all orders for prisoner attendance by the Berlin “Hereditary Health Court”, usually without providing any explanation. For their part, the “Hereditary Health Judges” did not show the same persistence in all cases. If the facts “were clear”, they sometimes decided on the basis of the files and did not insist on the attendance of the concentration camp inmate at their hearing.²⁵ In other instances, they even, somewhat demonstratively, suspended the proceedings. For instance, in the case of the “homosexual preventive prisoner” Hellmut S., who had been registered for sterilization by the camp doctor at the beginning of 1938 due to “*severe alcoholism*”, the court findings read: “*Since the documents provided are by no means sufficient to secure the diagnosis, the proceedings are suspended until the question is clarified as to whether the inmates of Sachsenhausen concentration camp are to be brought before the Berlin Hereditary Health Court or whether the Hereditary Health Court is to hold its sessions in the concentration camp.*”²⁶

The SS’s consistent uncooperativeness concerning prisoner court appearances was however not the only issue. The SS in Sachsenhausen also frequently failed to hand over the letters from the court to the prisoners, particularly in cases where the camp doctor had failed with his sterilization application. In the SS prisoner file for Paul P., for example, there is a note that a “*sealed envelope*” received “*from the Berlin Hereditary Health Court*” for the prisoner had been taken into “*safekeeping*” by the “*personal effects staff*”²⁷. The court had rejected the camp doctor’s request for the sterilization of Paul P. just three weeks earlier.

In the case of the “preventive custody” prisoner Johannes W., the withholding of judicial mail even led to a protracted dispute over several months between the judiciary and the SS at the highest level.²⁸ Johannes W., who had been reported to the Berlin court at the beginning of 1938 by the SS camp doctor for “*severe alcoholism and schizophrenia*”²⁹, had been sentenced to sterilization on 11 March – in abstentia because the SS had not brought him to the hearing. The prisoner appealed against the sentence and the presiding judge then “*forbade*” the camp doctor “*for the time being, to perform the sterilization.*”³⁰ In mid-August 1938, the 55-year-old Johannes W. was personally heard by the appellate court. The court subsequently overturned

24 Ibid., fol. 20–27, citation: fol. 27.

25 E. g. the verdict on the “criminal preventive prisoner” Wilhelm. S., EG case-file Wilhelm S., LAB, A Rep. 356, no. 41802, fol. 208.

26 EG case-file Hellmut S., LAB, A Rep. 356, no. 45245, fol. 20. Likewise the verdict on “homosexual preventive prisoner” Karl S., EG case-file Karl S., LAB, A Rep. 356, no. 45286, fol. 19.

27 Medical record Paul P. from Sachsenhausen prisoner infirmary, State Archives of the Russian Federation, Moscow (subsequently GARF), copies in: AS, D 25 A 1 T 2, fol. 272; EG verdict from 23/5/1941 on case of Paul P.: decisions of the III Chamber of the EG Berlin, in: files of the EG Berlin, LAB, A Rep. 356, no. 41790, file no. 263-39/41.

28 Cf. correspondence between the Reich Minister of Justice, the Reichsführer-SS and the Inspector of Concentration Camps, 31/3 to 27/12/1939, Der Bundesbeauftragte für die Unterlagen des Staatssicherheitsdienstes der ehemaligen DDR (BStU), MfS AK 475 8/86, fol. 65–99, copies in: AS, P3 Johannes W. For details of the case see Ley: Eugenische Zwangssterilisation im KZ Sachsenhausen, pp. 859–860.

29 EG verdict on Johannes W., 11/3/1938, decisions of the VI Chamber of the EG Berlin, LAB, A Rep. 356, no. 41802, file no. 264-27/38. Description of the case taken from: Letter from the Reich Minister of Justice (sig. Dr. Vogel) to the Reichsführer-SS, 31/3/1939, in: correspondence, AS, P3 Johannes W., fol. 88–90.

30 Letter from the Reich Minister of Justice, in: correspondence, AS, P3 Johannes W., fol.88–90, citation: fol. 88.

the first-instance verdict on 6 October 1938, and the camp doctor's sterilization application was rejected. However, the SS did not hand over the court ruling (which arrived by postal mail at the concentration camp commandant's office on 15 October) to Johannes W. Instead, they delivered him to the Oranienburg hospital on 20 October 1938, where he was subsequently sterilized.³¹

The unlawful sterilization of the prisoner led to a lengthy exchange of letters between the Reich Ministry of Justice and the personal staff of SS Chief Himmler from the end of March 1939 onwards, in which the judiciary complained about the SS abuse of power, while the SS attempted to cover up and deflect.

In the process, the Reich Minister of Justice admonished that camp commanders, "*like all other heads of prisons and institutions*", were "*obliged to comply with the orders for prisoner attendance from the Hereditary Health Courts*". The systematic disregard of orders by the Sachsenhausen camp SS had led to "*a current stand of 50 unprocessed applications*" in the Berlin court. In addition, the Minister made clear that "*the decisions of the court must be handed over to the respective prisoners immediately following delivery.*" Johannes W., he noted, could not be considered "*an isolated case*" since the camp doctor himself had "*stated during a verbal consultation that the decisions of the Hereditary Health Courts were often not handed over to the persons concerned for reasons of camp discipline.*" The Ministry of Justice demanded, therefore, that the SS immediately remedy the aforementioned abuses and "*call to account those responsible for the illegal sterilization*"³² of Johannes W.

Apparently, notwithstanding the unlawful sterilization of Johannes W., only the highly regulated process of performing the operation in an authorized hospital offered hardly any leeway for arbitrary SS action. According to court records, all Sachsenhausen prisoners sentenced to sterilization by the Berlin court were operated on in the Oranienburg hospital.

In the spring of 1939, the Sachsenhausen concentration camp suddenly gave up its stance of non-compliance and, as a rule, cooperated from then on with the prisoner attendance orders from the "Hereditary Health Court". The head camp doctor informed the Berlin court on 17 February 1939 that after "*consultation with the camp commandant [...] there were no longer any objections to a collective presentation of the prisoners before the court*"³³ and asked for a collective date to be set for all upcoming proceedings. One can only speculate on the reasons for this change of mind; possibly the SS suspected that they had gone too far in Johannes W.'s case. In any event, from the end of March 1939, the concentration camp commandant's office generally complied with the "Hereditary Health Court's" requests for prisoner attendance at their hearings. The court also made concessions to the concentration camp and – wherever possible – set collective appointments for the prisoners.³⁴ What didn't cease, as internal camp administration documents show, was the practice – "*on grounds of camp discipline*"³⁵ – of keeping prisoners in the dark with respect to negative court rulings.

31 By submitting the first-instance decision, SS had misled the hospital administration about the outcome of the proceedings (cf. Letter from the Reich Minister of Justice, in: correspondence, AS, P3 Johannes W., fol.88–90.

32 Correspondence, AS, P3 Johannes W., fol. 65–99, citation: fol. 89–90.

33 The camp doctor's letter was accompanied by a "*list of 13 prisoners for whom applications for infertility treatment had been submitted to the Berlin Hereditary Health Court*" (Letter from Sachsenhausen concentration camp to the EG Berlin, 17/2/1939, in: General files EG Berlin, LAB, A Rep. 356, no. 45542, fol. 138–139.

34 Cf. Registers of I to IV Chambers of EG Berlin, LAB, A Rep. 356, No. 45588–45645.

35 E. g. Covering letter from the camp doctor to the personal effects office, 20/5/1941, in: Medical file Hans L. from Sachsenhausen prisoner infirmary, GARF, copies in: AS, D 25 A 1 T 2, fol. 238; likewise dated 11/6/1941, in: Medical file Paul P., *ibid.*, fol. 276.

4 Eugenic compulsory sterilization of Sachsenhausen concentration camp prisoners

According to a statistical analysis of the Berlin “Hereditary Health Court’s” records,³⁶ SS doctors submitted a total of 113 applications for the sterilization of concentration camp prisoners from Sachsenhausen in the period from December 1937 to August 1942.³⁷ The temporal distribution of the applications indicates different phases of camp-doctor activity. Following their inclusion in the sterilization program in 1937, the concentration camp doctors zealously set to work and sent a total of 40 applications to the court between the end of December 1937 and the beginning of March 1938. However, this diligence abruptly ceased at the end of February 1938, when differences first arose with the “Hereditary Health Judges”, who insisted that the persons concerned be presented before court. Apart from a few exceptions in late 1938, the camp doctors did not report “hereditarily diseased” prisoners to the court again until mid-February 1939, when SS capitulation had ended the conflict. By the beginning of September 1939, they had submitted 39 further sterilization applications. Subsequently, the beginning of the war and the mass influx of concentration camp prisoners apparently set limits to their commitment.³⁸ Between September 1939 and February 1941, a total of only eight applications were submitted for Sachsenhausen prisoners. In the spring of 1941, the number went up briefly to 16. This short-lived increase in sterilization applications was apparently connected to “operation 14f13” (“Aktion 14f13”), a programme to select and murder concentration camp prisoners deemed unfit to work.³⁹ For the rest of 1941, there were no more applications; in 1942 there were four. And that was the end of the application activity of the Sachsenhausen camp doctors.



Sterilization application for Paul P., 16/2/1941; anonymization by the author. Source: GARF, copies in: AS, D 25 A 1 T 2, fol. 268.

³⁶ All details in this subchapter, when not otherwise stated, are based on a statistical evaluation of the Berlin EG registers (LAB, A Rep. 356 no. 45588–45645).

³⁷ In 19 of these 113 cases, along with his own application the SS camp doctor had submitted a second sterilization application signed by the prisoner. Since sterilization applications submitted under concentration camp conditions cannot be viewed as free decisions, those 19 applications were also considered camp doctor sterilization applications.

³⁸ Due to mass admissions following the beginning of the war, the prisoner population in Sachsenhausen concentration camp doubled in a short period of time. At the end of August 1939, just under 6.600 men were incarcerated in the camp, while by the end of December 1939 this number had risen to well over 12.000 (cf. Günter Morsch/Astrid Ley (Ed.): Sachsenhausen Concentration Camp 1936–1945. Events and Developments. Berlin 2008, pp. 70–71).

³⁹ “Operation 14f13” began in April 1941. The SS camp doctors were also involved in the selection of prisoners later murdered in the killing facilities of “Euthanasia Action T4”. On this see Astrid Ley: Vom Krankenmord zum Genozid. Die “Aktion 14f13” in den Konzentrationslagern. In: Dachauer Hefte (2009), No. 25, pp. 36–49.

With the exception of two Polish nationals, the SS doctors only reported prisoners of German nationality to the court, probably because special restrictive rules applied to foreigners with regard to compulsory sterilization.⁴⁰ Those reported were born between 1871 and 1918; the youngest was 23 years old at the time of application, the oldest 67. Information on the prisoner category, i. e. the reason for arrest as documented by the SS, is available for 109 of the 113 men (n= 109).⁴¹ The majority, namely 42%, were registered as “asocials” (“Asoziale”), a very inhomogeneous group of socially persecuted men, which also included Sinti and Roma. 41% were listed as “preventive prisoners” because they had served several previous sentences for criminal offences. 13% were classified by the SS as political “protective prisoners” and 4% assigned to the small prisoner group of “homosexuals.” Comparing these figures with the percentage of the respective prisoner groups within the total German prisoner population of Sachsenhausen,⁴² there is a clear overrepresentation of “preventive prisoners,” who comprised only about 15% of the German prisoners in the period in question, and a slight underrepresentation of “protective custody prisoners,” who made up about 20% of Sachsenhausen’s German prisoner population at the time. On the other hand, the percentage of “asocials” and “homosexuals” reported for sterilization largely corresponded to their share of the total population.⁴³

It is striking that none of the prisoners concerned were registered as “Jews”. In the Reich as a whole, Jewish people were certainly amongst those targeted for forced sterilization; in large cities such as Berlin, where there was a large Jewish population, the proportion of Jewish victims was high.⁴⁴ Initially there were only a few prisoners with a Jewish background in Sachsenhausen concentration camp, but from mid-1938 – and especially following the November pogroms of 1938 – their number increased significantly.⁴⁵ From the beginning, the SS treated these men far worse than all other prisoners; they were isolated, assigned to the most back-breaking work details, deliberately humiliated and abused. According to recollections of political prisoners, Jewish prisoners were also excluded from any medical care in the camp infirmary⁴⁶ – which apparently also meant that they did not attract the attention of the SS camp doctors as potential sterilization candidates.

Instead it was the socially stigmatized prisoners or those persecuted as “criminals” who were targeted in the SS hunts for “inferior hereditary material.” The power of social prejudices is also reflected in the diagnoses that the camp doctors provided to support their applications. According to the sterilization law, there were nine

40 Foreigners resident in Germany could avoid compulsory sterilization by “voluntarily leaving the territory of the Reich” (Ley: *Zwangssterilisation*, pp. 79–80). One of the two Polish Sachsenhausen prisoners reported for sterilization made use of this option. Stanislaus P., who had lived in Germany as a “casual laborer” before being sent to the concentration camp, had himself deported to Poland in March 1939 (as recorded in the prisoner database of the Sachsenhausen archive). The sterilization application for the other Polish inmate was rejected by the EG Berlin at the end of 1941 (cf. EG verdict on Stanislaw S., 3 December 1941, decisions of the IV Chamber of the EG Berlin, LAB, A Rep. 356, no. 41807, file no. 264-43/41).

41 Details on prisoner categories from the prisoner database of the Sachsenhausen archives.

42 The period in question is 1938–1942 and the focus is exclusively on prisoners of German nationality, who constituted the essential target group of the camp doctors’ sterilization applications. As it happens, till the beginning of the war the Sachsenhausen prisoner population consisted almost exclusively of “Reich Germans”. From September 1939, however, the prisoner community became increasingly international due to mass admissions, so that from 1943 onwards German nationals were a minority (cf. Morsch/Ley: *Sachsenhausen Concentration Camp*, pp. 70–71, 114).

43 Up to half of all German prisoners between 1938 and 1942 were designated “asocials”, while only 5% were classified as “homosexual” (details from prisoner database of the Sachsenhausen archive).

44 Cf. Bock: *Zwangssterilisation*, pp. 354–360.

45 Cf. Morsch/Ley: *Sachsenhausen Concentration Camp*, pp. 50–55.

46 Cf. Astrid Ley/Günter Morsch: *Medical Care and Crime. The Infirmary at Sachsenhausen Concentration Camp 1936–1945*. Berlin 2007, pp. 128, 183.

“hereditary diseases” that justified the application, five of which were defined by psychiatric-neurological clinical indications.⁴⁷ Across the Reich, these five diagnoses accounted for about 95% of the sterilization procedures, with “feeble-mindedness” (almost 60%), schizophrenia (20%) and epilepsy (12%) leading the boards.⁴⁸ The camp doctors at Sachsenhausen also justified the majority of their sterilization requests with “feeble-mindedness” (48%), where the criteria for normal intelligence was based on socially accepted standards of knowledge.⁴⁹ The second highest justification for concentration camp applications was “severe alcoholism” (36%). This diagnosis, based essentially on non-conforming social behavior, played only a marginal role in the Reich-wide statistics (2%).⁵⁰ The findings of epilepsy (8%) and schizophrenia (6%) were below the Reich average for SS applications.⁵¹

The court hearings on the applications often took place in the form of collective appointments with up to seven prisoners, who were brought to the courthouse by several SS guards in prisoner transport vehicles. A 30-minute hearing was scheduled for each individual case.⁵² The SS provided the prisoners with “new uniforms”, “clean underwear” and “new socks and shoes”⁵³ for the appointments, probably to deceive the judges concerning the conditions in the concentration camp. This was apparently successful: based on the surviving minutes of the sessions, none of the “Hereditary Health Judges” showed the least interest in the fate of the concentration camp inmates; they were only concerned with assessing the diagnosis of the application. If the individuals in question ever tried to raise the issue of their detention-conditions before the court, it went unmentioned in the transcripts of the hearings.⁵⁴

Only 53 of the 113 SS medical sterilization applications were resolved by a court decision in Berlin. 30 applications were not pursued further by the court because in the meantime the prisoners had either “died” in Sachsenhausen (7 cases) or been transferred to another camp (17 cases) or released (3 cases), which meant that other “Hereditary Health Courts” had jurisdiction. In one case, the SS withdrew its application because the prisoner, who had been convicted “several times for moral crimes”,

47 Specifically: “congenital feeble-mindedness”, “manic-depressive insanity”, epilepsy, Huntington’s chorea, hereditary blindness, hereditary deafness, severe hereditary deformity, severe alcoholism (cf. Ley: Zwangssterilisation, p. 34).

48 Manic depression and alcoholism accounted for 3% and 2%, respectively; the remaining diagnoses each for less than 1%. For Reich-wide figures see Bock: Zwangssterilisation, pp. 302–303. Similar statistical proportions were found in regional evaluations of individual EG districts see Ley: Zwangssterilisation, pp. 39–40, footnote 6.

49 For a critical review on the diagnosis of “feeble-mindedness” see Bock: Zwangssterilisation, pp. 303–326.

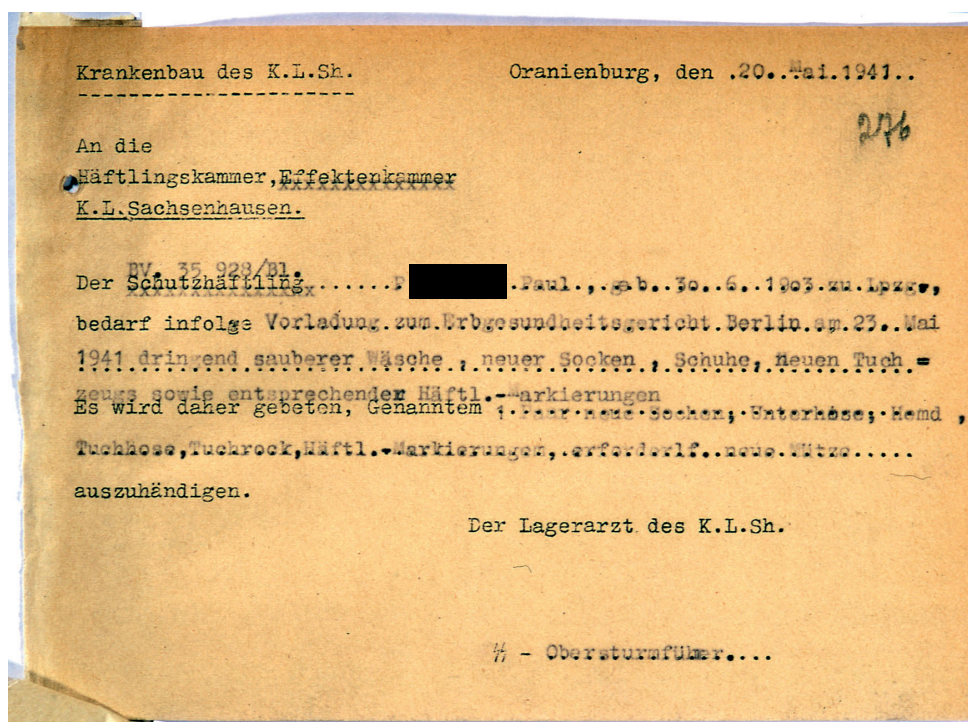
50 On the diagnosis “severe alcoholism” in Hereditary Health Court proceedings see Ley: Zwangssterilisation, pp. 61–63.

51 Finally in one case each, the camp doctors cited manic-depression and hereditary deafness as reasons for the application (so proportionally less than 1% in each case).

52 This is evidenced in internal camp correspondence on the preparation of such collective hearings. E. g. Medical file Hans L. from Sachsenhausen prisoner infirmary, GARF, copies in: AS, D 25 A 1 T 2, fol. 234; Medical file Paul P., *ibid.*, fol. 274–275. It’s not known how much time the EG Berlin spent on their deliberations in other cases. But the Berlin judges spent considerably more time reaching decisions on concentration camp inmates than, for instance, did their colleagues from Erlangen on compulsory sterilization applications for patients of the local state hospital. The Erlangen EG decided such cases in an average of just under nine minutes. See Ley: Zwangssterilisation, pp. 116–118.

53 Letter from the SS camp physician to the prisoners’ clothing section, 9/6/1941, in: Medical file Hans L. from Sachsenhausen prisoner infirmary, GARF, copies in: AS D 25 A 1 T 2, fol. 237; a similar letter can be found in: Medical file Paul P., *ibid.*, fol. 276.

54 E. g. Minutes of the oral hearing of “asocial” prisoner Rudolf A., 7/8/1939, EG case file Rudolf A., LAB, Rep. 356, no. 43895, fol. 26–28.; Minutes of the hearing (characterized by anti-Romani sentiment) of “asocial” prisoner Stephan P., 23/8/1939, EG case file Stefan P., LAB, A Rep. 356, no. 45018, fol. 23; Minutes of the hearing of “homosexual” prisoner Werner P., 29/8/1941, EG case file Werner P., LAB, A Rep. 356, no. 46075, fol. 31–32.; Minutes of the hearing of “protective prisoner” Hermann S., 7/7/1939, EG case file Hermann S., LAB, A Rep. 356, no. 45272, fol. 32–33.



Letter from the SS camp physician to the prisoners' clothing section, in: Medical file Paul P. from Sachsenhausen prisoner infirmary, 20/5/1941; anonymization by the author. Source: GARF, copies in: AS D 25 A 1 T 2, fol. 276.a

had since been “emasculated”⁵⁵; in two cases, the reason for case discontinuation was not available. Another 30 proceedings could not be completed due to the war: As a result of the non-compliance of the Sachsenhausen camp SS in 1938, many of the proceedings requested by the camp did not come up for hearing until mid-1939. But shortly after this time – on 1 September 1939 – the Nazi sterilization program was significantly restricted. From the beginning of the war, by order of the Reich Minister of the Interior, only “urgent” cases of “particularly high reproductive risk” (“Fortpflanzungsgefahr”⁵⁶) came before the courts; all other proceedings were discontinued, including the 30 cases against Sachsenhausen prisoners that had not yet been decided by the Berlin court.

Of the 53 cases decided by the courts, 17 ended with the rejection of the camp doctor’s sterilization application (32%); in 36 cases a sterilization order was issued (68%).⁵⁷ The camp SS was therefore successful with just over two-thirds of its applications, which was significantly below the Reich average of 85% sterilization decisions.⁵⁸ In addition to a lack of experience with psychiatric diagnoses on the part of the SS physicians and a possible distrust of SS-applications by the court, the low success rate of the

55 EG verdict from 15/4/1939 on case of Franz N., decisions of the III Chamber of the EG Berlin, LAB, A Rep. 356, no. 41787, file no. 263-71/38.

56 Verordnung zur Durchführung des Gesetzes zur Verhütung erbkranken Nachwuchses und des Ehegesundheitsgesetzes vom 31. August 1939, in: Reichsgesetzblatt Teil I, 1939, No. 157, p. 1560–1561. As a result of the decree, the number of proceedings in the Reich as a whole declined massively, see Bock: Zwangsterilisation, pp. 234–238.

57 15% of all final EG decisions on Sachsenhausen prisoners were made by the appellate court, which in the overwhelming majority of cases (75%) had been appealed to by those affected.

58 On the Reich-wide conviction rate based on Bock’s estimate and various regional surveys, see Christoph Braß: Zwangssterilisation und „Euthanasie“ im Saarland 1933–1945. Paderborn/München/Wien/Zürich 2004, pp. 136–137.

SS camp physicians can be explained above all by a peculiarity of the prisoners they reported for sterilization: concentration camp inmates, especially “criminal preventive prisoners,” had a certain amount of “court experience”, so they possibly understood better than other persons concerned how to represent their own case in the oral proceedings.

In the case of a sterilization decision, the SS again provided the convicts with fresh clothing, paying special attention to “*clean undergarments, including socks*”, and brought them to the Oranienburg hospital, sometimes in groups, as soon as the verdict was legally binding. Here, on the same day, they were rendered infertile by a surgeon by “*resection of the vas deferens*”, and “*immediately after the operation they were taken by ambulance to the prisoner infirmary of Sachsenhausen concentration camp*”⁵⁹, where they remained for five to six days for aftercare.⁶⁰

5 The later fate of the affected prisoners

Finally a brief look at the later fate of the prisoners reported for sterilization by the SS physicians. Of particular interest here is whether the success or failure of the SS sterilization application ultimately made any difference to the prisoners’ survival chances.⁶¹ Even if the number of cases investigated is too small to justify quantitative statements of greater scope certain trends are emerging.

In the following, 66 of the 113 cases filed by the Sachsenhausen concentration camp with the Berlin “Hereditary Health Court” are compared.⁶² In 30 of these 66 cases, the court granted the SS doctor’s sterilization request and the operation was carried out, while in the remaining 36 cases the court rejected the SS request or discontinued the proceedings due to the war, so that no sterilization could take place.⁶³ If one compares the records of the 30 prisoners forcibly operated on following a successful SS application with those of the 36 prisoners for whom no sterilization verdict was issued, what stands out is that the sterilized prisoners survived longer. Around 63% of the operated prisoners (n=30) were still alive twelve months after the forcible surgery, almost half of whom – 30% of operated prisoners – survived the concentration camp. By contrast, just under 20% of the non-sterilized prisoners ultimately survived the camp. An additional 33% survived the rejection of the SS application for at least twelve months. So with a total of 53% (n= 36), noticeably fewer non-sterilized than sterilized (63%) prisoners were still alive one year after the end of proceedings.⁶⁴ Almost half (47%)

59 Medical file Walter P. from Sachsenhausen prisoner infirmary, GARF, copies in: AS D 25 A 1 T 2, fol. 253–256. Similarly worded surgery reports from the Oranienburg hospital, e. g. in: Medical file Bernhard R., *ibid.*, fol. 306; Medical file Wilhelm W., GARF, copies in: AS, D 25 A 1 T 3, fol. 515; EG case file Werner P., LAB, A Rep. 356, no. 46075, fol. 45.

60 This can be deduced from the fever curves of the Sachsenhausen infirmary, e. g. Medical file Otto S. from Sachsenhausen prisoner infirmary, GARF, copies in: AS, D 25 A 1 T 3, fol. 352; Medical file Wilhelm S., *ibid.*, fol. 377; Medical file Waldemar W., *ibid.*, fol. 504.

61 The further fate of the prisoners was traced using prisoner databases from the Memorials of Sachsenhausen, Buchenwald, Dachau, Flossenbürg and Mauthausen. The online data bases of the Arolsen Archives (<https://arolsen-archives.org/>) and the Memorial Archives (<https://memorial-archives.international/>) were also evaluated.

62 The analysis does not include 30 cases which were not heard by the Berlin EG due to the prisoners concerned either dying or being transferred to another camp in the meantime. A further 17 cases could not be considered due to information gaps on the later fate of these prisoners.

63 In one of these cases, the SS still had the operation performed, as described above. The prisoner in question – Johannes W. – was transferred to Dachau and survived the end of proceedings by more than twelve months (cf. correspondence, AS, P3 Johannes W. and Arolsen Archives).

64 The end of proceedings is taken to be the date of the compulsory operation or, respectively, the day of the final rejecting court verdict.

of the prisoners who, contrary to SS wishes, remained fertile, died within a year after the end of proceedings, and the vast majority of these (30% of the unsterilized group) died within six months of the verdict.

Due to a lack of relevant sources, it's not easy to ascertain whether the lower survival rates were due to deliberate SS action in the Sachsenhausen camp. Towards the end of the war, a systematic destruction of files took place in all concentration camps, although many facts, such as excessive SS violence and real causes of death, were – anyway – never recorded in the camp files in the first place.⁶⁵ However, despite considerable gaps in the records, some cautious conclusions can be drawn on the post-trial fate of the prisoners. For instance, after the proceedings, those prisoners not sentenced to sterilization were generally kept by the SS in the Sachsenhausen camp, where almost a third of them died within a year, the vast majority of deaths occurring within the first six months.⁶⁶

By contrast, the majority of prisoners sentenced to sterilization (60%, n=30) were transferred to other concentration camps shortly after the operation, mostly to Dachau or Mauthausen. As mentioned above, almost a third of them survived the concentration camp, like the Berlin parquet layer Alfred S., who was brought to the Sachsenhausen concentration camp in March 1937 after several previous convictions. In January 1938, the camp physician applied for the sterilization of the “preventive” prisoner. At the end of June 1938, Alfred S. was sterilized in line with the court decision and transferred to Mauthausen on November 27, 1938. There it seems he spent years working in the camp kitchen as a potato peeler until his release from concentration camp custody by the American military government on May 23, 1945. Heinrich K. from Bremen was also rendered infertile at the request of the Sachsenhausen camp doctor. The waiter, classified as “asocial,” had been seized and brought to Sachsenhausen in June 1938 as part of operation “work-shy Reich” (“Arbeitsscheu Reich”). He was subsequently sterilized and transferred to Mauthausen on January 25, 1940. In August 1943, he was transferred via Gusen to the Wiener Neudorf subcamp, where he worked as a barrack clerk in a kapo post. Shortly before the end of the war, he returned to the main camp at Mauthausen, where he apparently experienced the liberation of Mauthausen.⁶⁷

The fate of these two prisoners exemplifies that of most of the men transferred to other camps after sterilization. The average survival time of the sterilized and transferred prisoners significantly exceeded that of the sterilized prisoners who were not transferred. Almost three quarters (72%) of those transferred were still alive more than one year later. By contrast, only 50% of the sterilized persons who remained in Sachsenhausen survived the end of the proceedings by more than one year. This comparatively shorter survival time of the non-transferred prisoners throws up the

65 On the intentional concealment of the crimes perpetrated in concentration camps across German-controlled territory see Johannes Tuchel: *Die Inspektion der Konzentrationslager 1938–1945. Das System des Terrors.* Berlin 1994, especially pp. 112–117, 164–173.

66 Only three of the non-sterilized prisoners (n= 36) were transferred to another camp within six months subsequent to the final court decision. Of the remaining 33 prisoners, 10 died in Sachsenhausen within a year, and seven more died later after being transferred to other camps.

67 According to: EG verdict from 15/3/1938 on case of Alfred S., decisions of the IV Chamber of the EG Berlin, LAB, A Rep. 356, no. 41802, file no. 264-33/38; EG verdict from 28/3/1939 on the case of Heinrich K., decisions of the II Chamber of the EG Berlin, in: *ibid.*, A Rep. 356, no. 41761, file no. 262-360/38; prisoner databases from the memorials of Sachsenhausen und Mauthausen (many thanks to Florian Guschl, Mauthausen Memorial, for the information) as well as Arolsen Archives.

question of whether the Sachsenhausen camp SS deliberately retained specific prisoners to subject to its harsh regime – which would include the group of prisoners who had not been sterilized despite all SS efforts.

6 Conclusion

The implementation of Nazi forced sterilization in Sachsenhausen concentration camp led to friction between the “Hereditary Health Court” and the concentration camp SS, which was ultimately a product of fundamental conflicts between the normative and prerogative-state institutions under National Socialism. As with many such conflicts within the Nazi state, the disputes were less about political differences and much more about staking out spheres of competence and power. The differences between the Berlin court and the Sachsenhausen concentration camp arose from an incompatibility between the legally binding principles which determined the “Hereditary Health Court” procedures and the principle of absolute control exercised by the SS in the concentration camps.

The upshot of this was that although the concentration camp doctors, who had been officially involved in forced sterilization since 1937, applied for numerous sterilization procedures at the Berlin “Hereditary Health Court”, they subsequently obstructed the execution of these procedures by not bringing the concentration camp inmates to the court hearing dates as prescribed. The camp doctors thereby not only considerably delayed the implementation of eugenic sterilization in the Sachsenhausen concentration camp, but also unintentionally ensured that many of the proceedings they had requested did not come to trial. In the end, they were only successful with 36 out of a total of 113 sterilization applications.

The question still remains as to why the concentration camp doctors took part in the legal procedure of Nazi forced sterilization at all and did not simply sterilize the prisoners in the camp infirmary, bypassing “Hereditary Health Court” trials and the prisoners’ right of appeal. One answer might be that SS camp doctors saw themselves not only as representatives of the SS, but also as medical doctors.⁶⁸ It is therefore quite possible that, like the vast majority of the German medical profession, they were extremely eager to participate in eugenic forced sterilization, if only with a view to future career opportunities in the civilian sector. Unquestionably – and especially considering that they often had little professional medical experience⁶⁹ – they were also filled with a certain pride in the “official medical authority” that had been conferred on them, even if only in relation to the sterilization law. Such arrogance is apparent, for example, in their communications with non-civil-servant colleagues, where they placed special emphasis on their “official medical authority”⁷⁰, or in the

68 Within the command staff of the concentration camp, the camp doctors already had a special role due to their academic training (cf. Karin Orth: Die Konzentrationslager-SS. Sozialstrukturelle Analysen und biographische Studien. Göttingen 22001, p. 61).

69 On the age and educational status of the camp doctors see Marco Pukrop: SS-Mediziner zwischen Lagerdienst und Fronteinsatz. Die personelle Besetzung der medizinischen Abteilung im Konzentrationslager Sachsenhausen 1936–1945. Hannover 2014, online at <https://www.repo.uni-hannover.de/handle/123456789/8606> [accessed 4/3/2023].

70 E. g. letter from the head camp doctor at Sachsenhausen to the director of the Heil- und Pflegeanstalt Herzberge, 12/1/1938, Medical file Wilhelm S. from Sachsenhausen prisoner infirmary, GARF, copies in: AS, D 25 A 1 T 3, fol. 395.

extra effort they put into identifying their sterilization applications as “*official medical*”⁷¹ submissions. It can further be assumed that the SS could not resist the opportunity to publicly embarrass the judiciary in these proceedings; by failing to present the prisoners, they were deliberately obstructing the proceedings they themselves had previously initiated. Finally events like the case of Johannes W. could be viewed as an SS attempt to beat the court with its own weapons; presenting an invalid court order, and fully aware that the chamber would be informed, the SS had Johannes W. illegally sterilized in the Oranienburg clinic.

71 Printed at the top of the application form was the phrase: “*Official Medical Report/Medical Report – cross out the non-applicable option.*” On numerous applications made by the camp doctors, the option “*Medical Report*” is obscured beyond recognition in what looks like an act of some vehemence, see e. g. EG case file Otto B., LAB, A Rep. 356, no. 6468, fol. 4; Medical file Bernhard R. from Sachsenhausen prisoner infirmary, GARF, copies in: AS, D 25 A 1 T 2, fol. 318; Medical file Otto S. from Sachsenhausen prisoner infirmary, GARF, copies in: AS, D 25 A 1 T 3, fol. 368.

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